



Officers

Chair

Judith L. Lichtman
National Partnership for
Women & Families

Vice Chairs

Jacqueline Pata
National Congress of American Indians
Thomas A. Saenz
Mexican American Legal
Defense and Educational Fund

Hilary Shelton
NAACP

Secretary

Jo Ann Jenkins

AARP

Treasurer

Lee A. Saunders
American Federation of State,
County & Municipal Employees

Board of Directors

Helena Berger
American Association of
People with Disabilities
Kimberly Churches
AAUW
Kristen Clarke
Lawyers' Committee for
Civil Rights Under Law
Lily Eskelsen Garcia
National Education Association
Fatima Goss Graves
National Women's Law Center
Chad Griffin
Human Rights Campaign
Wylecia Wiggs Harris
League of Women Voters of the
United States
Mary Kay Henry
Service Employees International Union
Sherrilyn Ifill
NAACP Legal Defense and
Educational Fund, Inc.
David H. Inoue
Japanese American Citizens League
Michael B. Keegan
People for the American Way
Samer E. Khalaf
American-Arab
Anti-Discrimination Committee
Marc Morial
National Urban League
Janet Murguía
National Council of La Raza
Debra L. Ness
National Partnership for
Women & Families
Terry O'Neill
National Organization for Women
Rabbi Jonah Pesner
Religious Action Center
Of Reform Judaism
Anthony Romero
American Civil Liberties Union
Hilary Shelton
NAACP
Shanna Smith
National Fair Housing Alliance
Richard L. Trumka
AFL-CIO
Randi Weingarten
American Federation of Teachers
Dennis Williams
International Union, UAW
John C. Yang
Asian Americans Advancing Justice |
AAJC

Policy and Enforcement

Committee Chair

Michael Lieberman
Anti-Defamation League
President & CEO
Vanita Gupta

July 24, 2017

Statement of June Zeitlin, Director of Human Rights Policy, The Leadership Conference on Civil and Human Rights and The Leadership Conference Education Fund

U. S. Department of State Civil Society Consultation on the preparation of the upcoming U.S. government report to the Committee on the Elimination of All Forms of Racial Discrimination.

I want to thank the State Department for convening this consultation with civil society to discuss the upcoming review of the United States on the implementation of its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). The Leadership Conference on Civil and Human Rights is a coalition of more than 200 diverse national organizations, including civil and human rights organizations representing African American, Latino, Asian American and Native American communities, women, seniors, people with disabilities, LGBT people, immigrants, labor unions, and faith-based organizations, all joined together in a common purpose to build an America as good as its ideals. The Leadership Conference submitted a shadow report, "Falling Further Behind: Combating Racial Discrimination in America," and attended the previous CERD review in Geneva in 2014. We are pleased to have this opportunity to provide input to the U.S. government and register our very serious concerns that this administration is going in the wrong direction, reversing and undermining many of the important gains made in addressing persistent racial discrimination in the United States, particularly in criminal justice, voting rights, education, health care, and domestic implementation, among other areas.

CERD sets forth comprehensive guidelines to promote equality and racial justice. The treaty provides that the state actor may take special measures for the advancement of racial and ethnic minorities, and that the state actor ensure that its policies avoid creating or perpetuating segregation. Extending equal opportunity in education, employment, housing; protecting the right to vote; reducing hate violence and racial disparities in the criminal justice system; preventing discrimination in health care; and advancing economic security are not only commitments under the CERD treaty but also are legal obligations that the administration must meet. Our nation's civil and human rights laws are a testament to who we are today as a country, a sign of the tremendous progress we have made throughout our history, and a pledge we make to future generations to continue moving ever closer to our ideals of fairness and equity for all. For decades, and for compelling reasons, the vigorous enforcement of these laws has been a core federal responsibility, and should never be seen as optional or as a matter of politics.

As a large coalition, we have profound concerns that the civil and human rights of all Americans are being drastically rolled back as a result of the administration's proposed deep budget cuts to DOJ and other agencies' civil rights offices, and the withdrawal of numerous policies, programs, regulations, and guidances. To highlight just a few: the formation of a



“voter integrity” commission to attempt to justify voter suppression efforts, limits on the use of consent decrees to reform troubled police departments, the revival of a failed war on drugs, support of an intentionally racially discriminatory voter ID law, increased prosecutions and mass deportation of undocumented immigrants, the proposed defunding of Planned Parenthood, freezes on affirmative litigation, and the rollback of guidance clarifying protections for transgender students.

I would like to focus today in more detail on five areas highlighted by the CERD Committee in its 2014 concluding observations:

Addressing racial discrimination in the criminal justice system (para 20)

Praising the “Smart on Crime” initiative, the Committee expressed concern “that racial and ethnic minorities, particularly African Americans, continue to be disproportionately arrested, incarcerated, {and} subjected to harsher sentences...” Yet, the Attorney General revoked the Smart on Crime initiative which was intended as one means to address these racial disparities.

The Committee also calls on the United States “to take concrete and effective steps to eliminate racial disparities at all stages of the criminal justice system...” Yet recent actions taken by this administration do just the opposite. The Department of Justice has:

- Revoked a 2016 directive aimed at phasing out the use of private prisons for federal inmates. This action ran contrary to findings issued by the Department of Justice in 2016 finding that private prisons were subject to higher rates of violence, abuse, and neglect.
- Called for the review of all “existing and contemplated” consent decrees in matters involving police departments engaged in a pattern and practice of violating civil rights.
- Undermined carefully negotiated consent decrees implemented during the Obama administration. Over the objection of Attorney General Sessions, a federal judge recently moved forward with a consent decree that places the Baltimore Police Department on a path to long overdue reform.
- Issued a recent directive to prosecutors that threatens to reignite a “War on Drugs” by mandating harsh sentences for criminal defendants. The directive has been the subject of bipartisan opposition and runs contrary to efforts across the country to reduce and eliminate harsh sentences imposed on low-level offenders.
- Announced intent to issue a new proposal on civil asset forfeiture that would seize property of individuals merely charged with a crime. The abuse of civil asset forfeiture laws has been chronicled over the last several years and has a disproportionate impact on people of color.

Right to Vote (para 11)

The Committee notes its concern about “the obstacles faced by individuals belonging to racial and ethnic minorities and indigenous peoples to effectively exercise their right to vote, due, inter alia, to restrictive voter identification laws, district gerrymandering and state-level felon disenfranchisement laws.” Yet steps taken by the administration have severely exacerbated this problem and could lead to major voter suppression and disenfranchisement of racial and ethnic minorities. Specifically:

- In May, the administration created a so-called election integrity commission which, based on its composition, is clearly designed to lay the foundation for voter suppression recommendations such as photo ID laws and voter roll purges. The commission sent a request to



all states in late June requesting highly personal data such as partial Social Security numbers and party affiliation in an effort to create a national database of American voters. At least seven lawsuits have been brought challenging the legality of the commission's data request and operations.

- In perhaps a coordinated move, the Justice Department sent a letter to nearly every state in late June requesting they provide extensive information on how they keep their voter rolls up-to-date. The letter didn't focus on the many parts of federal law that expand opportunities to register to vote, but rather the section related to voter purging. A blanket request along these lines is unprecedented. And unlike the commission's request, the Justice Department has federal statutory authority to investigate whether states are complying with the law.
- In February, the Justice Department reversed a longstanding position and asked a federal court to dismiss DOJ's earlier claim that the Texas photo ID law was enacted with the intention of discriminating against minority voters. That claim was made by the Obama administration as part of a broader legal challenge to the law, which was among the strictest in the nation. This litigation is still pending.

Right to Education (para 14)

While the Committee welcomed the Equity and Excellence Commission established by the prior administration, it also noted its continued concern "that students from racial and ethnic minorities disproportionately continue to attend segregated schools with segregated or unequal facilities..., denied equal access to advanced courses and disciplined unfairly and disproportionately due to their race, including referral to the criminal justice system."

- The Department of Education's decision to scale back and narrow the way the Office for Civil Rights (OCR) will approach civil rights enforcement is deeply concerning. The Secretary of Education must ensure justice for students who report discrimination, investigate systemic discrimination, collect and report the data needed to identify where students do and do not have equal opportunity in education, and issue clarifying policy guidance to assist schools, districts, and states in meeting their obligations under federal law.
- The Secretary of Education's decision to delay and renegotiate the Borrower Defense and Gainful Employment regulations is a direct attack on federal student loan borrowers—especially the most vulnerable students in our higher education system: low-income students and students of color. These rules under the Higher Education Act of 1965—a law first passed at the height of the civil rights movement—provide critical protections for students seeking higher education and a better life for their families.
- The Health and Human Services Department proposed to get rid of a question in the National Survey of Children's Health (NSCH) regarding preschool suspension and expulsion. The high and racially disproportionate rates of exclusionary discipline of children beginning in early childhood and continuing through high school makes this data even more critical. Without access to valid and reliable data, parents, advocates, educators, service providers, researchers, policymakers, and the public will not have the information they need to ensure early childhood settings are developmentally appropriate and nondiscriminatory.
- The Department of Education must enforce federal civil rights laws, programs, and policies that address disparities in funding, equitable teacher distribution, and overall achievement for students of color in public schools.



- The Department of Education must address disproportionately high suspension/expulsion rates for students of color. We know that Black students are suspended and expelled at higher rates than white students. The suspension rates for girls of color are even more disproportionate than for boys.
- The Department of Education should rigorously review ESSA state accountability plans to ensure states are not allowing schools to shirk their responsibility to all children, especially children of color who have been shortchanged for too long, or fail to meet the intent of the law. The department should not approve any plan that does not hold schools accountable for each group of students, including African American students, Latino students, Asian American students, Native students, as well as White students, low-income students, English learners, and students with disabilities.

Right to Health and Access to Health Care (para 15)

The Committee commended the adoption of the Affordable Care Act (ACA), but expressed concern that many states with substantial numbers of racial and ethnic minorities have opted out of the Medicaid expansion, and that continues to be a significant barrier to health care for racial and ethnic minorities in those states. The risks of losing access to affordable quality health care is much greater under congressional proposals to repeal the Affordable Care Act, supported by the administration, which would result in more than 20 million people losing access to health care.

- The ACA has reduced the number of people without insurance to historic lows, including a 39 percent reduction of the lowest income individuals. Gains were particularly substantial for racial and ethnic minorities. Medicaid coverage, especially the expansion of Medicaid, has resulted in large numbers of people of color gaining access to affordable quality health care for the first time. People of color represent 58 percent of non-elderly Medicaid enrollees. According to the Kaiser Family Foundation, African Americans comprise 22 percent of Medicaid enrollment and Hispanics comprise 25 percent. The Congressional Budget Office (CBO) estimates of the various repeal or repeal and replace bills show that between 22-34 million Americans would lose their coverage.

The Leadership Conference opposes any repeal of the ACA and deep cuts in Medicaid, which would deprive a disproportionate number of African Americans, Hispanics, and indigenous people.

The Leadership Conference urges the administration to actively engage in activities to promote the Decade of People of African Descent and to develop a plan of action for publicizing and promoting the Decade here in the United States.

- We urge continued enhanced funding of the expansion and extending the option to states that have not yet expanded.
- The Department of Health and Human Services should not grant waivers to states that would limit essential health benefits or impose work requirements on Medicaid recipients.
- The Leadership Conference also opposes the congressional proposals supported by the administration to defund Planned Parenthood, which provides preventive health care, including birth control, testing, and treatment for sexually transmitted diseases, and well women exams for over two million people per year. Poor families and people of color make up 40 percent of Planned Parenthood patients.

Treaties, Domestic Implementation, including Decade on People of African Descent



- The Leadership Conference urges the administration to support U.S. ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the ratification of the Convention on the Rights of Persons with Disabilities (CRPD). (para 29)
- The Committee called upon the United States to take concrete steps to “Improve the system of monitoring and response by federal bodies to prevent and challenge situations of racial discrimination.” (para 5(c))
- The Leadership Conference urges the administration to reverse course and make a serious commitment to vigorously enforce the nation’s civil and human rights laws and to support the implementation of the laws and practices addressing racial discrimination in the United States.
- The Leadership Conference urges the administration to actively engage in activities to promote the Decade on People of African Descent and to develop a plan of action for publicizing and promoting the Decade here in the United States.